

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

GRUMA CORPORATION,
D/B/A MISSION FOODS

Plaintiff,

v.

MISSION TACO LLC; MTJ SOULARD LLC;
MTJ CROSSROADS, LLC; MTJ CWE, LLC;
MTJ ST. CHARLES, LLC;
MTJ SOUTH PLAZA, LLC;
MTJ KIRKWOOD, LLC;
MTJ WOODSMILL, LLC;
MTJ LEAWOOD, LLC
MIDWEST MASA, LLC;
TRG CATERING LLC;
TRG INVESTMENTS LLC;
TILFORD RESTAURANT GROUP LLC;

Defendants.

No.

JURY TRIAL DEMANDED

**COMPLAINT FOR UNFAIR COMPETITION
AND TRADEMARK INFRINGEMENT**

Plaintiff Gruma Corporation (“Gruma”) for its Complaint against Defendants Mission Taco LLC; MTJ Soulard LLC; MTJ Crossroads, LLC; MTJ CWE, LLC; MTJ St. Charles, LLC; MTJ South Plaza, LLC; MTJ Kirkwood, LLC; MTJ Woodsmill, LLC; MTJ Leawood, LLC; Midwest Masa, LLC; TRG Catering LLC; TRG Investments LLC; and Tilford Restaurant Group LLC (collectively “Mission Taco” or “Defendants”) respectfully states as follows:

INTRODUCTION






1. Gruma, its predecessors and related companies, have spent over 60 years and many millions of dollars building the goodwill and reputation of the MISSION brand of food products in the U.S. and throughout the world.





2. MISSION brand tortillas, chips and other food products are the leader in grocery store sales in the Mexican food products category, and MISSION brand tortillas hold approximately 43% market share in the U.S. tortilla industry. The labels and packaging for MISSION brand food products usually feature a design element depicting a bell and a bell tower, recognizable as a Spanish mission. A rendition of the mark as used by Gruma is:






3. Gruma's trademark MISSION is well known to the purchasers of tortillas, tortilla chips and other Mexican food products. Gruma is the owner of federally registered trademarks for MISSION and MISSION and Design, including the marks listed below:

Mark	Reg. No.	Goods/Services
MISSION	RN: 1216032	Int'l Class: 30 (Int'l Class: 30) Corn Tortillas, Wheat Flour Tortillas, Taco Shells, Tostados Shells
MISSION	RN: 1785711	Int'l Class: 29, 30 (Int'l Class: 29) processed jalapeno peppers and fried pork rinds (Int'l Class: 30) tortilla chips, salsas, taco sauce, and cheese sauce

Mark	Reg. No.	Goods/Services
MISSION	RN: 3243446	Int'l Class: 30 (Int'l Class: 30) tortilla products, namely, wraps
MISSION and Design 	RN: 3243447	Int'l Class: 30 (Int'l Class: 30) tortilla products, namely, wraps
MISSION and Design 	RN: 3539989	Int'l Class: 30 (Int'l Class: 30) tortillas; tortilla products, namely, wraps; taco shells, salsas, cheese sauces
MISSION and Design 	RN: 3634622	Int'l Class: 43, 44 (Int'l Class: 43) providing a database in the field of recipes and cooking information (Int'l Class: 44) providing nutritional information via an online website
MISSION and Design 	RN: 3731022	Int'l Class: 30 (Int'l Class: 30) tortillas
MISSION and Design 	RN: 3818319	Int'l Class: 30 (Int'l Class: 30) tortillas
MISSION and Design	RN: 3818317	Int'l Class: 30 (Int'l Class: 30) tortillas

Mark	Reg. No.	Goods/Services
		
MISSION and Design 	RN: 3818353	Int'l Class: 30 (Int'l Class: 30) tortillas
MISSION and Design 	RN: 3818320	Int'l Class: 30 (Int'l Class: 30) tortillas
MISSION and Design 	RN: 3818321	Int'l Class: 30 (Int'l Class: 30) tortillas
MISSION GREEN	RN: 3998756	Int'l Class: 43, 44 (Int'l Class: 43) providing a database in the field of recipes, providing recipes via a web site
ONE PLANET. ONE MISSION.	RN: 3998757	Int'l Class: 43 (Int'l Class: 43) providing a database in the field of recipes, providing recipes via a web site
MISSION HEARTY GRAINS Disclaimer: "HEARTY GRAINS"	RN: 4329258	Int'l Class: 30 (Int'l Class: 30) Tortillas

Mark	Reg. No.	Goods/Services
MISSION	RN: 4339381	Int'l Class: 30 (Int'l Class: 30) flatbreads
MISSION and Design 	RN: 4339382	Int'l Class: 30 (Int'l Class: 30) flatbreads
MISSION	RN: 4343167	Int'l Class: 30 (Int'l Class: 30) crackers
MISSION and Design 	RN: 5702134	Int'l Class: 30 (Int'l Class: 30) Cheese sauce; Salsa; Tortilla chips
MISSION	RN: 5817159	Int'l Class: 43 (Int'l Class: 43) Providing a database in the field of recipes; providing websites featuring recipes, cooking information and food preparation techniques
MISSION and Design 	RN: 5854850	Int'l Class: 30 (Int'l Class: 30) tortilla chips; tostadas

(collectively, the “MISSION Marks”).

4. On information and belief, Mission Taco started to operate a restaurant under the names MISSION, MISSION TACO and MISSION TACO JOINT on Delmar Boulevard in St. Louis, Missouri in 2013, long after Gruma and its predecessor had started use of MISSION and established the MISSION brand for Mexican food products. Mission Taco began expanding locally in the St. Louis metro area, opening a second location on Lafayette Avenue in St. Louis,

Missouri in 2014; a location on North Euclid Avenue in St. Louis, Missouri in 2016; a location in St. Charles, Missouri in 2017; and a location in Kirkwood, Missouri in 2020. Defendants have publicly stated their plans and intent to continue expanding and open a new location in Town and Country, Missouri. Defendants have expanded further in Missouri, opening a location on 409 East 18th Street in Kansas City, Missouri in 2017, and a location on 5060 Main Street in Kansas City, Missouri 2018. Mission Taco expanded outside of Missouri for the first time only months ago, opening a location in Leawood, Kansas in 2023.

5. Mission Taco operates their restaurants under the following logo:



(the "MTJ Logo").

6. On information and belief, Mission Taco also expanded in 2023 to offer Mexican food products at Busch Stadium during St. Louis Cardinals Major League Baseball baseball games. Additionally, Mission Taco operates a food truck, entitled MISSION TACO TRUCK, from which Defendants offer Mexican food products under the MISSION mark:



7. There are now 8 MISSION TACO locations across two States with another planned location announced in the St. Louis metro area. Mission Taco's recent expansion into Kansas shows Defendants' intent to continue expanding into additional states. Mission Taco's expansion into professional sports stadiums and food trucks shows Defendants' intent to continue expanding outside of traditional restaurants.

8. Gruma recently became aware of Mission Taco and Mission Taco's use of MISSION at the 2023 Tortilla Industry Association meeting in Austin, Texas. This lawsuit is a response to the recent rapid expansion of Mission Taco's use of the name and the marks MISSION, MISSION TACO and the MTJ Logo and the likelihood of expansion of that use outside of Missouri and into grocery stores and supermarkets on Mexican food products.

THE PARTIES

9. Gruma is a corporation organized and existing under the laws of the State of Nevada. Its principal place of business is at 5601 Executive Drive, Suite 800, Irving, Texas 75038.

10. Upon information and belief, each location of Mission Taco operates as an independent limited liability company. Each of the Defendants are interrelated and under co-ownership. Each limited liability company identifies the same principal place of business and has the same registered agent. Upon information and belief, Defendants are the alter egos of each other.

11. Defendant Mission Taco LLC is, on information and belief, a limited liability company under the laws of the State of Missouri, having its principal place of business at 286 East Avenue, Webster Groves, Missouri, 63119.

12. Defendant MTJ Soulard LLC is, on information and belief, a limited liability company under the laws of the State of Missouri, having its principal place of business at 286 East Avenue, Webster Groves, Missouri, 63119.

13. Defendant MTJ Crossroads, LLC is, on information and belief, a limited liability company under the laws of the State of Missouri, having its principal place of business at 286 East Avenue, Webster Groves, Missouri, 63119.

14. Defendant MTJ CWE, LLC is, on information and belief, a limited liability company under the laws of the State of Missouri, having its principal place of business at 286 East Avenue, Webster Groves, Missouri, 63119.

15. Defendant MTJ St. Charles, LLC is, on information and belief, a limited liability company under the laws of the State of Missouri, having its principal place of business at 286 East Avenue, Webster Groves, Missouri, 63119.

16. Defendant MTJ South Plaza, LLC is, on information and belief, a limited liability company under the laws of the State of Missouri, having its principal place of business at 286 East Avenue, Webster Groves, Missouri, 63119.

17. Defendant MTJ Kirkwood, LLC is, on information and belief, a limited liability company under the laws of the State of Missouri, having its principal place of business at 286 East Avenue, Webster Groves, Missouri, 63119.

18. Defendant MTJ Woodsmill, LLC is, on information and belief, a limited liability company under the laws of the State of Missouri, having its principal place of business at 286 East Avenue, Webster Groves, Missouri, 63119.

19. Defendant MTJ Leawood, LLC is, on information and belief, a limited liability company under the laws of the State of Kansas, having its principal place of business at 286 East Avenue, Webster Groves, Missouri, 63119.

20. Defendant Midwest Masa, LLC is, on information and belief, a limited liability company under the laws of the State of Missouri, having its principal place of business at 286 East Avenue, Webster Groves, Missouri 63119.

21. Defendant TRG Catering LLC is, on information and belief, a limited liability company under the laws of the State of Missouri, having its principal place of business at 286 East Avenue, Webster Groves, Missouri 63119.

22. Defendant TRG Investments LLC is, on information and belief, a limited liability company under the laws of the State of Missouri, having its principal place of business at 286 East Avenue, Webster Groves, Missouri 63119.

23. Defendant Tilford Restaurant Group LLC is, on information and belief, a limited liability company under the laws of the State of Missouri, having its principal place of business at 286 East Avenue, Webster Groves, Missouri 63119.

JURISDICTION AND VENUE

24. The Court has subject matter jurisdiction in this action under 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a) because it arises under the Lanham Act, 15 U.S.C. § 1052 *et seq.* Jurisdiction over the state law cause of action is proper under 28 U.S.C. § 1338(b) because it asserts a claim of unfair competition and is joined with substantial and related claims under federal trademark law.

25. Venue is proper in this District under 28 U.S.C. § 1391(b) because it is a judicial district in which at least one of the Defendants resides, and all Defendants are residents of the State in which this District is located; and alternatively because a substantial part of the events or omissions giving rise to the claims occurred in this District.

FACTS

26. Defendants' MISSION TACO restaurants, as the name implies, sell principally tacos, which comprise tortillas wrapped around a filling, e.g., beef, chicken, pork, fish, etc. In addition, Mission Taco serves chips and salsa, which goods that are sold by Gruma under its MISSION brand, as well as other Mexican food products. Mission Taco recently expanded into concessions at professional sporting events and food trucks.

27. Given the fame of the MISSION brand for Mexican food products, it is inevitable that the use of the name MISSION TACO by Mission Taco will result in confusion of the purchasing public, who both eat at Mission Taco restaurants and buy Gruma's MISSION brand food products.

COUNT I
INFRINGEMENT OF
TRADEMARK REGISTRATIONS AGAINST ALL DEFENDANTS
15 U.S.C. § 1114

28. Defendants are using in commerce a reproduction, counterfeit or colorable imitation of the MISSION Marks in connection with the sale, offering for sale, distribution, and advertising of its goods and services, on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive.

29. Mission Taco's infringement of Gruma's MISSION Marks is causing damage and immediate and irreparable harm to Gruma, which will continue unless Defendants are enjoined by this Court.

COUNT II
UNFAIR COMPETITION BY USE OF FALSE AND MISLEADING
REPRESENTATION AGAINST ALL DEFENDANTS
15 U.S.C. § 1125(a)(1)(A)

30. The word mark MISSION is inherently distinctive. In addition, as a result of Gruma and its predecessor's continuous and extensive use of the MISSION trademark for over 60 years, the trademark has come to denote Plaintiff's goods.

31. Mission Taco's use of the name and mark MISSION TACO constitutes use in connection with Defendants' goods and services of a false designation of origin, false or misleading description of fact, or false or misleading representation of fact which is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Mission Taco with Gruma, or as to the origin, sponsorship, or approval of Mission Taco's goods and services by Gruma.

32. Mission Taco's use of MISSION TACO is likely to cause confusion among the relevant purchasing public, thus causing damage to Gruma. This confusion constitutes immediate

and irreparable harm to Gruma, which will continue unless Defendants are enjoined by this Court.

COUNT III
UNFAIR COMPETITION UNDER MISSOURI STATE LAW
AGAINST ALL DEFENDANTS

33. MISSION has acquired a secondary meaning and has become associated in the mind of the public as identifying Gruma as the source of the goods sold by Gruma.

34. Mission Taco's use of MISSION TACO is likely to deceive or mislead prospective purchasers by causing the mistaken belief that Mission Taco's business is actually Gruma's business, or that Defendants are the agents, affiliates, or associates of Gruma, or that the goods or services that Mission Taco markets are produced, sponsored, or approved by Gruma.

35. On information and belief, Mission Taco uses MISSION TACO in an attempt to deceive the ordinary buyer and to trade on Gruma's reputation.

36. Defendants' use of MISSION TACO constitutes unfair competition under Missouri law, thus causing damage to Gruma. This unfair competition constitutes immediate and irreparable harm to Gruma, which will continue unless Defendants are enjoined by this Court.

PRAYER

Gruma respectfully requests:

(1) that this Court preliminarily and permanently enjoin Defendants, their parents, subsidiaries, officers, directors, employees, agents, licensees and franchisees, and all persons acting in participation or concert with Defendants:

(a) from using the name and mark MISSION, MISSION TACO, MISSION TACO JOINT or any other name or mark confusingly similar to the MISSION Marks, or any

copy or colorable imitation of any of the MISSION Marks, in connection with the sale, advertising or promotion of any foods or food services;

(b) from using the name and mark MISSION, MISSION TACO, MISSION TACO JOINT or any other trademark or trade name confusingly similar to the MISSION Marks in any manner likely to injure Gruma's business reputation, or to dilute the distinctive quality of the MISSION Marks;

(c) from using in commerce the name and mark MISSION, MISSION TACO, MISSION TACO JOINT or any other word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact which is likely to cause confusion or to cause mistake or to deceive as to the affiliation, connection, or association of Defendants with Gruma, or as to the origin, sponsorship, or approval of Defendants' goods, services or commercial activities by Gruma;

(d) from opening any new restaurants under the marks MISSION, MISSION TACO or MISSION TACO JOINT, including but not limited to a new restaurant in Town and Country, Missouri, or from otherwise expanding use of the marks MISSION, MISSION TACO or MISSION TACO JOINT, including but not limited to use in grocery stores and supermarkets, or use in any venue other than use in Defendants' already established restaurants, Busch Stadium, and the single food truck currently operated by Defendants, while this lawsuit is pending.

(2) that in any injunction the Court direct Defendants to file with this Court and serve on Gruma, within thirty (30) days after the service on Defendants of the injunction, a report in

writing under oath setting forth in detail the manner and form in which the Defendants have complied with the injunction.

(3) that the Defendants be ordered to deliver up for destruction any and all labels, signs, prints, packages, wrappers, receptacles, menus, and advertising in the Defendants' possession bearing the MISSION, MISSION TACO or MISSION TACO JOINT name and mark; and

(4) that Gruma recovers such further and other relief that this Court finds just.

JURY DEMAND

Gruma hereby requests a trial by jury of this action on issues so triable.

Dated: October 2, 2023

Respectfully submitted,

THOMPSON COBURN LLP

/s/ Matthew A. Braunel

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